

**Submission of  
Title VI Implementation Plans  
June 30, 1999**

February 3, 2000

The Honorable John S. Wilder  
Speaker of the Senate  
The Honorable Jimmy Naifeh  
Speaker of the House of Representatives  
and  
Members of the General Assembly  
State Capitol  
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the report on the submission of Title VI implementation plans. This review was conducted pursuant to the requirements of Section 4-21-901, *Tennessee Code Annotated*.

Sincerely,

John G. Morgan  
Comptroller of the Treasury

JGM/llw

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**TABLE OF CONTENTS**

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	<u>Page</u>
<b>INTRODUCTION</b>	1
Authority	1
Objectives of the Review	1
Scope and Methodology of the Review	1
Purpose and Scope of Title VI	1
Title VI Plan Guidelines	2
<b>OBSERVATIONS AND COMMENTS</b>	3
Filing Title VI Complaints of Discriminatory Practices	3
<b>CONCLUSIONS</b>	7
Title VI Implementation Plans	7
Title VI Complaints	7
Summary	7
<b>APPENDICES</b>	
Appendix A–Status of Title VI Implementation Plans	8
Appendix B–Title VI Complaints	13

# **Submission of Title VI Implementation Plans**

## **June 30, 1999**

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### **INTRODUCTION**

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#### **AUTHORITY**

Chapter 502 of the Public Acts of 1993 (Section 4-21-901, *Tennessee Code Annotated*) requires those state agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 to develop a Title VI implementation plan. These plans were to be submitted to the Department of Audit by June 30, 1994, and are to be submitted each June 30 thereafter.

Section 4-21-901 further requires the Department of Audit to publish, at least once a year, a cumulative report of its findings and recommendations concerning compliance with the statute's requirements. Pursuant to that directive, this report will identify the plans submitted to the Department of Audit.

#### **OBJECTIVES OF THE REVIEW**

The objectives of the review were to summarize the purpose and scope of Title VI and to detail agencies' compliance with the reporting requirements in *Tennessee Code Annotated*, Section 4-21-901.

#### **SCOPE AND METHODOLOGY OF THE REVIEW**

The Title VI plans submitted to the Department of Audit are the result of a self-reporting process in which each agency drafts its own plan. The Division of State Audit's review of the agencies' plans was limited to whether the plans had been submitted.

Accordingly, we do not attempt to express an opinion on the implementation of the provisions in the plans. Rather, this review will be limited to determining if Title VI implementation plan documents were submitted.

#### **PURPOSE AND SCOPE OF TITLE VI**

Title VI of the Civil Rights Act of 1964, as codified in 42 USC. 2000d, states:

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

Title VI is intended to prohibit discrimination on the basis of race, color, or national origin in federally assisted programs even if federal money makes up only a portion of the program's budget. The emphasis of Title VI is on services provided by a government agency to the citizens of a given area. If federal money is used to provide services, Title VI applies, and services must be delivered in a nondiscriminatory manner.

A recipient of federal assistance violates Title VI when it

- denies an individual service, aid, or benefits because of race, color, or national origin;
- provides only inferior or discriminatory service, aid, or benefits because of any individual's race, color, or national origin;
- subjects an individual to segregation or different treatment in relation to aid, services, or benefits because of race, color, or national origin;
- restricts or discourages individuals in their enjoyment of facilities because of race, color, or national origin;
- treats an individual differently because of race, color, or national origin in regard to eligibility for programs or services;
- uses criteria which would impair accomplishment of the Act's objectives or which would subject individuals to discrimination because of race, color, or national origin;
- discriminates against an individual in any program or activity that is conducted in a facility constructed even partly with federal funds; or
- subjects an individual to discriminatory employment practices under any federal program intended to provide employment.

## **TITLE VI PLAN GUIDELINES**

The Human Rights Commission has issued guidelines for the development of Title VI implementation plans. By following these guidelines, agencies can ensure that their plan documents are comprehensive and complete.

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## OBSERVATIONS AND COMMENTS

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In general, most agencies have taken the steps necessary to prepare vigorous Title VI implementation plans. See Conclusions for the status of submission of implementation plans for fiscal years 1995 through fiscal year 2000.

As reported in *Tennessee State Agencies and Title VI of the Civil Rights Act of 1964*, issued in 1994 by the Comptroller's Office of Local Government, many state agencies receiving federal funding were generally unaware of or had little knowledge of their responsibilities under Title VI. This situation arose, in part, because the federal entity responsible for coordinating implementation of Title VI—the U.S. Department of Justice—placed little emphasis on and provided no guidance on Title VI compliance.

Because most state agencies knew little about Title VI compliance issues, many referred to existing plans and examples for guidance when drafting their 1994-95 plans. The examples, however, lacked several elements necessary for compliance with U.S. Department of Justice guidelines. Governor Ned McWherter assigned the responsibility of monitoring Title VI compliance to the State Planning Office on March 1, 1994. As the State Planning Office received the implementation plans, staff reviewed the plans and compared them to the guidelines. State Planning then sent comments on weaknesses noted and requested revised plans. As a result, several agencies submitted revised plans that satisfied the necessary Title VI requirements. On June 12, 1995, the State Planning Office was repealed by Chapter 501, Public Acts of 1995. The Human Rights Commission has taken on the role of monitoring the plans. On October 15, 1998, the Commissioner of Finance and Administration notified all cabinet officers and agency heads that the Human Rights Commission is the coordinating state agency for the monitoring and enforcement of Title VI.

### **Filing Title VI Complaints of Discriminatory Practices**

*Tennessee Code Annotated*, Section 4-21-905, specifies the procedures for filing a complaint concerning discriminatory practices. Any person claiming to be aggrieved by a discriminatory practice under this part has 180 days to file a complaint with the state agency receiving federal funds. An aggrieved person may also file a complaint with the Human Rights Commission, as provided in *Tennessee Code Annotated*, Section 4-21-302. Complaints filed with state agencies are subject to review by the Human Rights Commission for applicability under Title VI of the Civil Rights Act of 1964.

During fiscal year 1998-99, eight state departments received Title VI complaints. Except for the complaints filed by inmates against the Department of Correction, we reviewed the current status of these complaints.

The Department of Education received one complaint against Blount County Schools by the parents of a student alleging that their child was subjected to racial slurs, etc., from other students and that the whole atmosphere of the school system was discriminatory. The U.S. Office of Civil Rights in Atlanta investigated the case, as the complaint had also been filed with them. The case is still under investigation, and a class action suit has been filed and is under investigation.

The Department of Transportation received one complaint from a minority resident of the city of Bartlett alleging the city had discriminated against him by not providing water and sewage to his property. The complaint was investigated by the department's Title VI officer who found the allegations to be unsubstantiated.

The Department of Human Services (DHS) received three Title VI complaints, one concerning national origin and two involving race. A complaint was filed against Hamblen County DHS by a Mexican female who alleged that she had been denied food stamp benefits because of her nationality. The local county and state DHS Title VI coordinators' investigation found that employees had followed proper procedures in determining the complainant's eligibility and that no discrimination had occurred. The problem had been erroneous information on her nationalization documentation, which was subsequently cleared up by U.S. Immigration, and confusion due to her recent move from Texas. The complainant's benefits were restored retroactively.

The second complaint was against Shelby County DHS. A black female alleged she was kicked by a case manager who also made racial slurs and denied her benefits in the form of Families First childcare services. State and local DHS Title VI coordinators investigated and found that there had been rude and discourteous behavior but no assault or racial slurs by the case manager. The complainant also filed the complaint with the Tennessee Human Rights Commission (THRC) and the U.S. Department of Health and Human Services (U.S. DHHS). The U.S. DHHS informed Tennessee DHS the second week of October 1999 that it was upholding Tennessee's decision. The THRC is reviewing DHS's investigation to determine whether THRC will uphold or overturn DHS's decision.

The third complaint was against Carroll County DHS. A black female claimed she was denied food stamp benefits because of race. The investigation by state and local DHS found no Title VI violations and that the complainant was indeed ineligible for such benefits as she had voluntarily quit her job.

The Department of Economic and Community Development received one Title VI complaint against Sweetwater City alleging the city would not respond to the minority complainant regarding flooding in his residential area. The complaint was filed with the Tennessee Human Rights Commission (THRC) who, along with ECD and the attorney general's office, looked into the situation. The department found there to be no discrimination because similar problems were found elsewhere around the city and the city had not addressed those situations either. However, the complaint has not been formally resolved by THRC, which is still investigating.

The Department of Children's Services received one Title VI complaint against Hermitage Hall where a client accused a therapist of racial discrimination. The client did not appreciate the therapist's confrontation on therapy issues and blamed it on racial discrimination. The issue was resolved by discussion between the client and therapist.

The Department of Health received five Title VI complaints, all involving TennCare. The first complaint involved a female TennCare enrollee alleging discrimination based on race and on what she perceived as substandard treatment by a medical provider in BlueCare's provider network due to her being a TennCare enrollee. TennCare investigated the complaint through contact with BlueCare. After the complainant spoke with BlueCare she was only concerned with changing her primary care provider and, once that was done, did not wish to pursue her complaint any further.

The second complaint was from a male TennCare provider alleging discrimination by Access MedPlus, due to his race and national origin, through unnecessary delays and resistance in approval of legitimate patient claims and denial of the opportunity to become a "dental consultant" for Access MedPlus. Following an investigation by TennCare's Title VI coordinator and director of Quality Improvement and the Department of Health's dental director and a meeting with the complainant, TennCare found no evidence of discrimination against the complainant. The complainant was referred to the Human Rights Commission if he disagreed with the department's findings. The complainant has not pursued the issue further with the Human Rights Commission, which is nevertheless reviewing the case and will issue an official opinion on the agency's investigation.

The third complaint involved a female TennCare enrollee who alleged that she and her minor child were discriminated against by an Access MedPlus dental provider because of their race. The complainant also had concerns about the dental provider charging for her son's dental service. TennCare and Access MedPlus investigated. After the complainant was reimbursed for her son's dental service, she informed TennCare's Title VI office that she did not wish to pursue the complaint further.

The fourth complaint involved a male TennCare enrollee alleging racial discrimination by the medical personnel of a hospital in BlueCare's provider network. This complaint is currently under investigation by TennCare's Title VI coordinator and has been reviewed by TennCare's medical director and BlueCare. The complainant has been referred to a physician of his choice to establish the legitimacy of his complaint.

The last complaint involving TennCare was from a female TennCare enrollee alleging racial discrimination by the medical personnel of a hospital in her children's Access MedPlus provider network. The complainant questioned the medical provider's rationale for treatment of her children and objected to the manner in which he handled her children. TennCare's Title VI coordinator, medical director, and Access MedPlus are currently investigating the case.

The Department of Mental Health and Mental Retardation received one Title VI complaint in which a female patient at Moccasin Bend Mental Health Institute claimed the facility beautician



discriminated against her because of her nationality (accent). The agency's Title VI coordinator investigated and found the allegations to be unsubstantiated.

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## CONCLUSIONS

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### **Title VI Implementation Plans**

As of December 6, 1999, all state agencies required to submit a Title VI Implementation Plan for fiscal year 2000 had done so, except for the District Attorneys General Conference. Appendix A presents the status of Title VI implementation plans submitted for fiscal years 1995 through 2000.

### **Title VI Complaints**

See Appendix B for the number of complaints filed with state agencies during fiscal years 1995 through 1999.

### **Summary**

The true measure of successful compliance will not hinge so much on whether plans have been prepared and submitted but rather on whether the provisions contained in the plans are actually carried out. The Human Rights Commission should, therefore, be vigilant in making the public aware of citizens' rights under Title VI of the Civil Rights Act of 1964 and investigating any complaints government agencies or the commission receives concerning violations of Title VI.

In addition to the commission's investigation of complaints, the Division of State Audit's financial and compliance audit reports of agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 will include material violations of Title VI requirements noted during the audit. The audits for fiscal years ending June 30, 1994, through June 30, 1999, contain no findings addressing violations of Title VI.

## Appendix A

### Status of Title VI Implementation Plans As of January 24, 2000

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>	<u>FY 00 Plan Submitted</u>
Commission on Aging	June 30, 1994 Revised Sept. 16, 1994	June 30, 1995	June 28, 1996	July 1, 1997	July 1, 1998	June 30, 1999
Department of Agriculture	June 30, 1994 Revised Nov. 7, 1994	June 30, 1995, letter stated prior plan remained in effect	June 27, 1996, letter stated plan being revised	July 10, 1997	July 21, 1998	June 30, 1999
Alcoholic Beverage Commission	October 25, 1994	June 29, 1995	July 11, 1996	July 3, 1997	July 29, 1998	July 8, 1999
Arts Commission	July 29, 1994 Revised Nov. 10, 1994	June 30, 1995	July 8, 1996	June 24, 1997	June 30, 1998	June 30, 1999
Commission on Children and Youth	June 30, 1994 Revised Sept. 30, 1994	June 30, 1995	June 28, 1996	June 30, 1997	June 30, 1998	June 29, 1999
Department of Children's Services <sup>1</sup>	August 1, 1994	June 28, 1995	June 28, 1996	June 30, 1997	July 8, 1998	June 30, 1999
Department of Commerce and Insurance	No federal funds	No federal funds	No federal funds	No federal funds	June 29, 1998	June 24, 1999

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<sup>1</sup> FY 95 and FY 96 plans were submitted by the Department of Youth Development.

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As of January 24, 2000**

<b><u>State Entity</u></b>	<b><u>FY 95 Plan Submitted</u></b>	<b><u>FY 96 Plan Submitted</u></b>	<b><u>FY 97 Plan Submitted</u></b>	<b><u>FY 98 Plan Submitted</u></b>	<b><u>FY 99 Plan Submitted</u></b>	<b><u>FY 00 Plan Submitted</u></b>
Department of Correction	August 17, 1994 Revised Nov. 18, 1994	June 30, 1995 Revised Aug. 21, 1995	June 28, 1996	June 27, 1997	June 30, 1998	June 30, 1999
Administrative Office of the Courts	Entity indicated report pending per letter dated December 15, 1994	August 23, 1995	April 4, 1997	July 9, 1997	June 30, 1998	June 29, 1999
District Attorneys General Conference	Entity indicated report pending per letter dated December 21, 1994	July 6, 1995	June 28, 1996	July 25, 1997	June 30, 1998	
District Public Defenders Conference	December 8, 1994	June 8, 1995	July 3, 1996	June 30, 1997	July 1, 1998	July 2, 1999
Department of Economic and Community Development	August 17, 1994	June 26, 1995	October 4, 1996	June 30, 1997	June 30, 1998 Revised Sept. 30, 1998	June 30, 1999
Department of Education	July 12, 1994 Revised Nov. 2, 1994	June 30, 1995	June 28, 1996	June 30, 1997	June 30, 1998	June 29, 1999
Department of Employment Security	July 14, 1994	June 30, 1995	June 27, 1996	May 1, 1997	June 30, 1998	June 30, 1999
Department of Environment and Conservation	December 21, 1994	June 30, 1995	June 28, 1996	July 1, 1997	June 30, 1998	June 30, 1999
Executive Department	June 30, 1994	No federal funds	No federal funds	No federal funds	No federal funds	No federal funds

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Department of Finance and Administration	July 1, 1994 Rev. Sept. 12, 1994	July 31, 1995	July 1, 1996	June 30, 1997	July 2, 1998	June 30, 1999
Department of General Services	August 16, 1994 Revised Sept. 9, 1994, and Nov. 4, 1994	June 30, 1995, letter stated the prior plan remained in effect	June 28, 1996	June 30, 1997	June 30, 1998	June 29, 1999
Department of Health	August 5, 1994 Rev. Nov. 28, 1994	June 16, 1995	July 3, 1996	July 1, 1997	June 30, 1998	June 30, 1999
Human Rights Commission	December 8, 1994	August 4, 1995	October 14, 1996	December 15, 1997	July 1, 1998	June 30, 1999
Department of Human Services	August 10, 1994	July 7, 1995 Revisions to follow	June 13, 1996	June 30, 1997	June 30, 1998	June 30, 1999
Council of Juvenile and Family Court Judges	June 30, 1994	June 30, 1995, letter included in Commission on Children and Youth's plan	July 3, 1996	Covered by Commission on Children and Youth's plan	Covered by Commission on Children and Youth's plan	Covered by Commission on Children and Youth's plan
Department of Labor	July 5, 1994	June 29, 1995	September 6, 1996	July 1, 1997	August 7, 1998	June 30, 1999
Department of Mental Health and Mental Retardation	Entity indicated report pending per letter dated June 30, 1994	June 28, 1995	July 3, 1996	July 1, 1997 Revised Jan. 29, 1998	June 30, 1998	June 30, 1999
Military Department	June 29, 1994 Revised Oct. 20, 1994	June 30, 1995, letter stated prior plan remained in effect	June 27, 1996	June 30, 1997, letter stated prior plan remained in effect	July 1, 1998	June 30, 1999

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Department of Revenue	Entity indicated report pending per letter dated December 21, 1994	June 30, 1995	July 5, 1996	June 30, 1997	July 1, 1998	June 30, 1999
Department of Safety	June 30, 1994	June 30, 1995	June 28, 1996	June 26, 1997	December 1, 1998	June 28, 1999
Department of State	July 1, 1994 Revised Sept. 13, 1994	June 30, 1995	June 28, 1996	June 30, 1997	June 30, 1998	June 30, 1999
Tennessee Board of Regents	June 30, 1994 Revised Sept. 15, 1994, and Nov. 4, 1994	July 14, 1995, letter stated prior plan remained in effect	May 2, 1996	June 30, 1997	September 30, 1998	June 30, 1999
Tennessee Bureau of Investigation	November 28, 1994	June 30, 1995 Revised Dec. 20, 1995	July 5, 1996	June 30, 1997	June 30, 1998	June 24, 1999
Tennessee Higher Education Commission	November 21, 1994	June 30, 1995	July 1, 1996	June 24, 1997	July 14, 1998	July 1, 1999
Tennessee Housing Development Agency	June 30, 1994	June 29, 1995, letter stated prior plan remained in effect	July 1, 1996	June 30, 1997	July 8, 1998	July 1, 1999
Tennessee Regulatory Authority <sup>2</sup>	July 1, 1994	June 30, 1995	July 24, 1996	July 2, 1997	June 30, 1998	June 29, 1999

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<sup>2</sup>FY 95 and FY 96 plans were submitted by the Public Service Commission.

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Tennessee Student Assistance Corporation	June 30, 1994	July 28, 1995, letter updating prior plan	July 3, 1996	July 9, 1997	July 17, 1998	July 1, 1999
Tennessee Wildlife Resources Agency	June 30, 1994	June 30, 1995	July 2, 1996	July 10, 1997	November 24, 1998	June 30, 1999
Department of Transportation	August 15, 1994	July 10, 1995, letter stated prior plan remained in effect	May 31, 1996	June 30, 1997	June 30, 1998	June 30, 1999
Department of the Treasury	August 17, 1994 Revised Nov. 3, 1994	June 30, 1995, letter stated prior plan remained effect Updated Aug. 17, 1995	August 23, 1996	January 6, 1997	November 17, 1998	July 1, 1999
University of Tennessee	December 15, 1994	June 19, 1995	August 8, 1996	June 9, 1997	June 19, 1998	June 14, 1999
Department of Veterans Affairs	June 30, 1994 Revised Sept. 14, 1994	June 30, 1995	June 24, 1996	June 30, 1997	June 30, 1998	June 22, 1999

The following agencies have reported that they have no federal funds and, therefore, are not subject to Title VI requirements:

Office of the Attorney General and Reporter  
Office of the Comptroller of the Treasury  
Department of Financial Institutions  
Fiscal Review Committee  
Health Facilities Commission

Office of Legislative Administration  
Obion-Forked Deer Basin Authority  
Board of Paroles  
Department of Personnel  
Tennessee Advisory Commission on Intergovernmental Relations

Tennessee Corrections Institute  
Department of Tourist Development

## Appendix B

### Title VI Complaints Reported

<u>Entity</u>	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
Commission on Aging	-	-	-	-	-
Department of Agriculture	-	-	-	-	-
Alcoholic Beverage Commission	-	-	-	-	-
Arts Commission	-	-	-	-	-
Commission on Children and Youth	-	-	-	-	-
Department of Children's Services	-	-	-	-	1
Department of Commerce and Insurance	-	-	-	-	-
Department of Correction	-	-	199 <sup>1</sup>	198 <sup>1</sup>	260 <sup>1</sup>
Administrative Office of the Courts	-	-	-	-	-
District Attorneys General Conference	-	-	-	-	-
District Public Defenders Conference	-	-	-	-	-
Department of Economic and Community Development	-	-	-	-	1
Department of Education	2	2	2	1	1
Department of Employment Security	-	-	-	-	-
Department of Environment and Conservation	-	-	-	1	-
Executive Department	-	-	-	-	-
Department of Finance and Administration	-	-	-	-	-
Department of General Services	-	1	-	-	-
Department of Health	-	-	-	-	5
Human Rights Commission	-	-	-	-	-
Department of Human Services	-	-	-	1	3
Council of Juvenile and Family Court Judges	-	-	-	-	-
Department of Labor	-	-	-	-	-
Department of Mental Health and Mental Retardation	-	-	-	-	1
Military Department	-	-	-	-	-
Department of Revenue	-	-	-	-	-
Department of Safety	-	-	-	-	-
Department of State	-	-	-	-	-
Tennessee Board of Regents	3	-	-	3	-
Tennessee Bureau of Investigation	-	-	-	-	-
Tennessee Higher Education Commission	-	-	-	-	-
Tennessee Housing Development Agency	-	-	-	-	-
Tennessee Regulatory Authority	-	-	-	-	-
Tennessee Student Assistance Corporation	-	-	-	-	-
Tennessee Wildlife Resources Agency	-	-	-	-	-
Department of Transportation	-	-	-	2	1
Department of the Treasury	-	-	-	-	-
University of Tennessee	-	-	-	3	-
Department of Veterans' Affairs	-	-	-	-	-

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<sup>1</sup> Complaints filed by inmates.